

Application Serial No. 10/676,511
Reply to Office Action of March 14, 2005

Patent
Docket: CU-3385

APR 14 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application: Kil Sang CHUN } GRP ART UNIT: 3644
Serial No: 10/676,511 } Ex.: Smith, Kimberly S.
Filed: October 1, 2003 }
For: METHOD FOR BUILDING ENVIRONMENT-AFFINITIVE PIGPEN AND
PIGPEN STRUCTURE

Certification under 37 C.F.R. §1.8(a)

The USPTO Central Fax No. (703) 872-9306

Date of Fax Transmittal: April 14, 2004

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted to the United States Patent and Trademark Office to the fax number and on the date indicated above.


W. William Park, Reg. No. 55,523

MAIL STOP AMENDMENT

Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

In the Office Action dated March 14, 2005, setting a 1-month shortened statutory period for a reply ending on April 14, 2005, the pending Claims 2-3 and 6-22 were restricted as follows:

Claims 2-3 and 6-13 drawn to a pigpen structure;

Claims 14-21 drawn to a pigpen housing structure; and

Claim 22 drawn to a method of building.

Applicant hereby elects Claims 14-21 with traverse for the reasons below.

Application Serial No. 10/676,511
Reply to Office Action of March 14, 2005

Patent
Docket: CU-3385

In addition, Applicant hereby cancels Claim 22 without prejudice.

Applicant retains the right to present the non-elected in a divisional application or to file a petition in case the present request for withdrawal of the restriction requirement is denied.

The Examiner is respectfully reminded that allowability of a generic claim precludes restriction. If an application contains an allowable generic claim, the divisible species claims are required to be examined in a single application, if the species claims are either written in dependent form or otherwise include all the limitations of the generic claim. In such a case, species claims are automatically allowable and no further search is required. 37 CFR § 1.141(a).

In the present application, Claim 14 directed to the pig pen structure is a generic claim as one of the recited limitation of Claim 14 is the pig house as claimed in Claim 2.

Therefore, the Examiner is respectfully advised that Applicant will rely on the patentability of the generic Claim 14 to overcome the present restriction requirement. If Claim 14 is found allowable, Claim 2 and all other dependent claims will also be allowable, and the restriction requirement should be withdrawn.

In addition, Applicant respectfully disagrees with the restriction requirement. Applicants respectfully requests the restriction requirement be withdrawn on grounds that the search and examination of Claims 2-3 and 6-13 in conjunction with the search and examination of Claims 14-21 are not unduly burdensome.

Application Serial No. 10/676,511
Reply to Office Action of March 14, 2005

Patent
Docket: CU-3385

MPEP §803 provides:

"If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct claims."

In particular, Applicants believe that each element recited in each set of claims does not substantially increase the search and examination requirement of the entire application.

Applicants respectfully point out that the examination on the merits of the claims directed to both the pig pen structure and the pig pen housing structure of the present application has already been made as it is reflected in the first Office Action mailed October 15, 2004, and to which Applicants have filed an Amendment Under 37 CFR 1.111 on January 5, 2005.

To require restriction after a first action on the merits, MPEP §811 requires showing of a serious burden on the Examiner for continued examination on the merits if the restriction requirement is not made:

"Before making a restriction requirement after the first action on the merits, the Examiner will consider whether there will be a serious burden if restriction requirement is not required." (MPEP §811)

Applicants respectfully note that the current restriction requirement is not made in the first action. No explanation of such a serious burden for continued examination on the merits appears to have been provided in the current Office Action (although, as understood, the current restriction requirement is based solely on the distinctness ground--between the method claims and product claims).

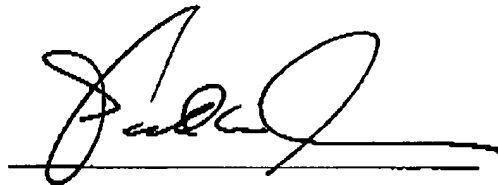
Application Serial No. 10/676,511
Reply to Office Action of March 14, 2005

Patent
Docket: CU-3385

Accordingly, withdrawal of the restriction requirement is respectfully requested, and election of Claims 14-21 with traverse is confirmed.

This response is considered to be responsive to all points raised in the Office Action. Should the Examiner have any remaining questions or concerns, the Examiner is encouraged to contact the undersigned attorney by telephone to expeditiously resolve such concerns.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'W. Park', written over a horizontal line.

Dated: April 14, 2004

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